IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C.R.No.3272 of 2006
Date of Decision : November 27, 2006.

Sat Dev Bhatia ..... Petitioner

Vs.

The State of Haryana and others ..... Respondents

Coram : Hon'ble Mr.Justice P.S.Patwalia

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Present : Mr.Manoj K.Sood, Advocate
for the petitioner.

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P.S.Patwalia, J. (Oral) :

The present Civil Revision has been filed challenging order passed by the learned Civil Judge (Junior Division), Faridabad dated 18.01.2006 vide which the learned Civil Judge dismissed an application filed by the petitioner-decree holder under Order 21 Rule 32.

The decree in favour of the petitioner was to the effect that the State of Haryana and its officials were restrained from interfering in the business of sale of lottery tickets issued to State of Haryana and other states by the petitioner. The present application was filed on account of an incident which occurred on 6.9.2001 when certain police officials raided the premises and ordered the closure of the shop on that day. It is the case of the State Government that the plaintiff had been indulging in illegal lottery selling (satta-khaiwali). On this basis an FIR was also lodged against some employees of the plaintiff though ultimately they were acquitted by the learned Judicial Magistrate IInd Class, Faridabad. The trial court had found that the plaintiff had failed to produce any person who had actually been

beaten up. It was further found that the oral and documentary evidence led by the decree-holder was weak and unsatisfactory so as to return a finding of deliberate violation of the decree. The relevant observations of the trial court are as hereunder :-

> *"From bare appraisal of the evidence so led by the applicant, it transports that applicant/D.H. has alleged that on 20.8.2001 S.H.O. Dharambir Rathi gave beatings to the clients of the applicant and pulled down the shutter of shop although in the application, the applicant/D.H. has alleged that the respondents/J.Ds got the business of his sale of lottery closed on 6.9.2001. In these circumstances, the testimony of such client was quite relevant, whom the respondent No.3 had given beating etc. However, no such client/person has been examined by the applicant/D.H. in order to substantiate his claim. The judgments of acquittal of persons namely Farukh and Rajeev dated 17.8.2004 (Ex.PB & Ex.PC) has nothing to do with the controversy involved in the present case as no iota of evidence has been led by applicant/D.H. that the aforesaid persons were under the employment of the applicant. It may be added here that oral and documentary evidence so led by the applicant/D.H. is so weak and unsatisfactory that it cannot be relied and acted upon. Moreover, violation if any, has to be proved beyond the reasonable doubt by the person complaining as standard of proof, in such cases would be as that of criminal proceedings. There is*

no dispute with regard to the preposition of law relied upon by the learned counsel for the applicant/D.H. however, the same is not applicable to the facts and circumstances of the present case."

Before me learned counsel for the petitioner contends that the alleged violation is only of one incident of that date. Otherwise today the petitioner is carrying on his business. I do not find any error in the order passed by the trial court warranting interference by way of the present revision petition. It is apparent that the police had raided the premises of the petitioner on a suspicion that some illegal lottery business was being carried on there and it was on this basis that his shop was temporarily closed.

I therefore find no merit in this revision petition and the same is accordingly dismissed.

November 27, 2006 (P.S.Patwalia)
monika Judge